

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**DANIEL HORACEK,**

**Plaintiff,**

**Case No. 04-CV-73929-DT**

**v.**

**HONORABLE DENISE PAGE HOOD**

**JILL EBERLY, LYNNE ADAMS,  
WILLIAM STIVERSON and SAL AHMED,**

**Defendants.**

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

This matter is before the Court on Magistrate Judge Paul Komives' Report and Recommendation dated August 4, 2005. Neither Party has filed objections to this Report.

Magistrate Judge Komives recommended that the Court grant the Defendants' Rule 12(b) Motion to Dismiss or Alternative Rule 56(b) Motion for Summary Judgment. On October 8, 2004, Plaintiff Daniel Horacek [hereinafter "Plaintiff"], filed a Complaint against Defendants Eberly, Adams, Stiverson, and Ahmed alleging three causes of action: (1) violation of Plaintiff's First Amendment right to receive legal mail; (2) violation of his Sixth Amendment right to the attorney/client privilege; and (3) violation of his Fourteenth Amendment due process right to access courts. On December 15, 2004, Defendants Eberly, Adams, Stiverson, and Ahmed filed a Rule 12(b) Motion to Dismiss or Alternative Rule 56(b) Motion for Summary Judgment. On January 3, 2005, Magistrate Judge Komives granted Plaintiff's Motion for Extension of Time. On March 1, 2005, the Magistrate Judge granted Plaintiff's Second Motion for Extension of Time, allowing Plaintiff until March 22, 2005 to file any response to Defendants' Rule 12(b) Motion to Dismiss or

Alternative Rule 56(b) Motion for Summary Judgment. To date, Plaintiff has not responded to Defendants' Rule 12(b) Motion to Dismiss or Alternative Rule 56(b) Motion for Summary Judgment.

After careful review and consideration, the Court finds that the Magistrate Judge reached the correct conclusion for the proper reasons.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Paul J. Komives, **[Docket No. 25, filed August 4, 2005]** is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Defendant Eberly's, Adams', Stiverson's, and Ahmed's Rule 12(b) Motion to Dismiss or Alternative Rule 56(b) Motion for Summary Judgment **[Docket No. 18, filed December 15, 2004]** is GRANTED.

IT IS FURTHER ORDERED that this matter is DISMISSED with prejudice.

s/ DENISE PAGE HOOD

DENISE PAGE HOOD

United States District Judge

DATED: September 27, 2005